| SERIAL NUMBER | FILING DATE | FIRST NAMED APPLICANT | | ATTORNEY DOCKET NO. |
|---|---|---|---|---|
| 06/942,666 | 12/17/86 | LIN | T | YALE 204-RSI |

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|---|
| ROLLINS, J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 183 | 30 |

DATE MAILED:

11/16/89

**Please find below a communication from the EXAMINER in charge of this application.**

Commissioner of Patents.

Consideration of Declaration after appeal

The Decalaration under 37 CFR 1.132 filed Oct. 5, 1989 is insufficient to overcome the rejection of claims 1-7 and 11 based upon 35 USC 112 first paragraph as set forth in the last Office action because the compound are by the declarant does not appear to be the compound employed in the present claims. The declarant compound is designated on "2', 3' -didehydro-2', 3-dideoxythymidine" while the compound of the instant applicantion is "2', 3' -de oxthymidin -2' -ene (3' -Deoxy-2', 3'-didehydrothymidine)". There is no indication in the specification or the declaration that the two names describe the same compound. Moreover, the meager data do not conclusively demonstrate that the instant method of treatment is enabled by the specification. The declaration admittedly only shows the potential amelioration of HIV in humans. There are no data showing any benefit to humans beyond on initial increase of CD4 counts, or increase in p 24 antigen and weight gain. Even if this data was sufficient to overcome the rejection of record, there still remains the question surrounding the test compound.

Any inquiry cincerning this communication orearlier communications from the examiner should be directed to (Dr,) John W. Rollins whose telephone number is (703) 557-3630.

Any inquiry of a general nature, or relating to the status of this application, should be directed to the Group receptionist whose telephone number is (703) 557-0664.

JOHN W. ROLLINS
**PRIMARY EXAMINER**
**ART UNIT 183**    1-Patent Application File Copy

Rollins-rb